

Rule 41(a)(1) provides that the Commission “may dismiss an action without a court order by filing a notice of dismissal before the opposing party serves either an answer or a motion for summary judgment.” FED. R. CIV. P. 41(a)(1)(A)(i). Here, Defendant Simo did not file an answer or a motion for summary judgment before he passed away.

DATED: December 2, 2016

/s/ B. David Fraser

B. DAVID FRASER

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CERTIFICATE OF SERVICE

On December 2, 2016, I electronically filed the foregoing *Notice of Dismissal as to All Claims against Defendant Joseph Simo* via the Court's CM/ECF filing system, which will send a notice of electronic filing to all CM/ECF participants. I further certify that I served a true and correct copy of the foregoing document and the notice of electronic filing via UPS and electronic mail on all non-CM/ECF parties and/or their counsel as detailed below:

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/s/ B. David Fraser

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